

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AETNA LIFE INSURANCE COMPANY,

Plaintiff-in-Interpleader,

V.

ESTATE OF RICHARD A YEAKLEY,
et al.,

Defendants.

Case No. C06-0352RSL

ORDER DENYING
DEFENDANTS' MOTION
FOR DEFAULT JUDGMENT

This matter comes before the Court on a motion for default judgment filed defendants, namely the Estate, Ralph Yeakley, Jr., and Diane K. Yeakley, remaining defendants. This matter involves a dispute regarding the proper of the proceeds from a group life insurance policy issued by plaintiff Aetna Life Policy.

Having reviewed the memoranda, declarations, and exhibits submitted by the parties, the Court finds as follows:

22 (1) This motion is premature. The Clerk of Court has not entered a default against
23 the non-moving defendants as required by Fed. R. Civ. P. 55(a) and Local Civil Rule
24 55(a).

25 (2) Based on the evidence submitted by plaintiff, it does not appear that a default
26 could be entered against the non-moving defendants. The Waiver of Service of Summons

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1 forms sent by plaintiff incorrectly state that an answer or motion under Rule 12 must be
2 filed within sixty days of November 10, 2005. Any defendant who actually read the
3 form, which was not mailed until at least March 16, 2006, could conclude that the time to
4 respond to the complaint had already passed. While such a technical defect in service
5 may not justify dismissal of the complaint, it precludes the entry of default or default
6 judgment against a non-responding party.

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8 For all of the foregoing reasons, the motion for default judgment is
9 DENIED.

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11 DATED this 9th day of June, 2006.

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13 Robert S. Lasnik,
14 United States District Judge

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